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DT20 Rec'd PCT/PTO 16 JAN 2003

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

**HARUNA et al.**

Atty. Ref.: **1858-30**

Serial No. **10/009,304**

Group: **(Unknown)**

National Phase of: **PCT/JP00/03912**

International Filing Date: **June 15, 2000**

Filed: **September 26, 2002**

Examiner: **(Unknown)**

For: **NUCLEATING AGENT**

\* \* \* \* \*

RECEIVED

**January 16, 2003**

20 JAN 2003

Assistant Commissioner for Patents  
Washington, DC 20231

International Division

**REQUEST (PETITION) TO VACATE ERRONEOUSLY ISSUED  
NOTICE OF ABANDONMENT**

Sir:

Applicants hereby request that the Notice of Abandonment Under 37 CFR 1.53(f) or (g) mailed January 6, 2003, Part 2 of which is attached hereto, be vacated since the Notice was issued erroneously in connection with the above-identified application. Specifically, it will be noted that:

- The above identified application was timely filed on December 7, 2001 as a U.S. national phase of PCT/JP00/03912. No Declaration accompanied the initial filing.
- A Notification of Missing Requirements was mailed on March 1, 2002, and applicants responded thereto on September 26, 2002 with payment of the appropriate extension fee. The response included a Declaration executed by the first named applicant. As to the second named applicant, it was necessary to file a Petition Under 37 CFR §§ 1.42 and 1.47 which included a Factual Declaration in Support thereof with three Exhibits. The Petition Under 37 CFR §§ 1.42 and 1.47 and its supporting factual Declaration accompanied the September 26, 2002 response to the Notification of Missing Requirements.

- A copy of a mail room receipt card dated September 26, 2002 acknowledging receipt of the completion papers (including the Petition Under 37 CFR §§ 1.42 and 1.47) is attached hereto.
- The Notice of Abandonment makes reference to the "reply received on 12/07/2001", which is confusing, since December 7, 2001 was not a "reply" date but rather the initial filing date. Clarification is therefore requested.
- A telephone inquiry was made on January 15, 2003 and the undersigned attorney was advised that this application is **not** indicated to be abandoned in the PTO records.

Therefore, it is apparent that the Notice of Abandonment was erroneously issued in the above identified pending application. Applicants request withdrawal thereof and written notification to that effect.

It is not believed that any fee is necessary in order for the Office to act on this request (petition). However, should it be deemed otherwise, the Commissioner is hereby authorized to charge any deficiency in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our **Account No. 14-1140**. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: 

**Bryan H. Davidson**

**Reg. No. 30,251**

**BHD:Imy**

1100 North Glebe Road, 8th Floor  
Arlington, VA 22201-4714  
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Commissioner for Patents  
Washington, DC 20231  
www.uspto.gov

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/009,304		Haruna	1858-30

Bryan H Davidson  
Nixon & Vanderhye  
1100 North Glebe Road  
8th Floor  
Arlington, VA 22201-4714

CONFIRMATION NO. 5939

**ABANDONMENT/TERMINATION  
LETTER**



\*OC000000009335073\*

Date Mailed: 01/06/2003

**NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)**

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 03/01/2002.

- The reply received on 12/07/2001 was improper. The reply did not include:
  - The oath or declaration of all the inventors required under 37 CFR 1.63 for this nonprovisional application.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to "Office of Petitions" at (703) 305-9282.

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*A copy of this notice **MUST** be returned with the reply.*

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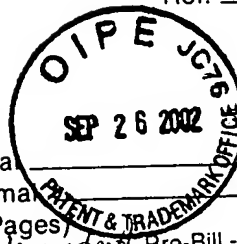
Customer Service Center  
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

Serial No.: 10/009,304  
Applicant: Haruna et al  
Title: Nucleating Agent

Atty: BHD  
Date: 9-26-02  
Client: 1858  
Ref: 30

☐ Amendment  
☐ Pages Specification  
☐ Claims  
☐ Sheets Drawings: Formal  
☒ Declaration (1 Pages)  
☒ Assignment (2 pages w/cover sheet)  
☐ Priority Document  
☐ Base Issue Fee Transmittal  
\$3,000.00 Fee (Check)



Pre-Bill - \$1,060.00  
Non Pre-Bill - \$1,940.00  
TOTAL - \$3,000.00

① Notice To File Missing Parts of Application Filing Date  
Other: Granted  
② Information Disclosure Statement with PTO Form 1449 with cited references

③ Petition Under 37 CFR § 1.42 + 1:47 w/Exh. b. 15 1-3